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Attorneys for Plaintiffs

18
19 UNITED STATES DISTRICT COURT
20 NORTHERN DISTRICT OF CALIFORNIA
21 SAN FRANCISCO/OAKLAND DIVISION

22 RON MOWDY, JOAQUAN HARVEY,
23 individually and on behalf of all others
similarly situated,,
24

Plaintiffs,

25 v.

26 BENETO BULK TRANSPORT, KENAN
27 ADVANTAGE GROUP, INC.,
28

Defendants.

Case No. 3:06-cv-05682 MHP


**JOINT STIPULATION AND [PROPOSED]
ORDER APPROVING FORM FOR
HOFFMAN-LA ROCHE NOTICE**

IT IS HEREBY STIPULATED AND AGREED by and between plaintiffs Ron Mowdy and Joaquan Harvey ("Plaintiffs"), on the one hand, and defendants Beneto Bulk Transport and Kenan Advantage Group ("Defendants"), on the other, through their respective counsel, as follows:

1. That attached hereto as Exhibit A is the notice ("Notice") to be issued to the class of drivers identified in Honorable Judge Marilyn Hall Patel's March 31, 2008 Memorandum & Order re Plaintiffs' Motion for Approval of Hoffmann-La Roche Notice.
2. The Notice shall be mailed to all potential class members within two weeks of approval of the Notice by this Court.

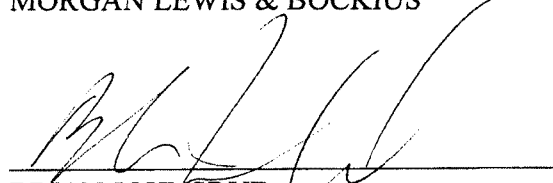
DATED: April 25, 2008

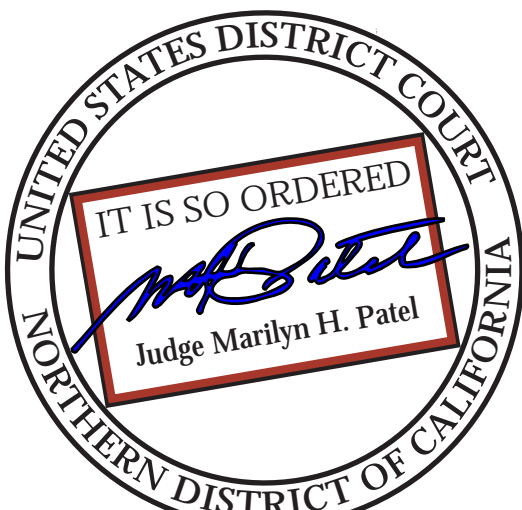
LAWSON LAW OFFICES


ANTONIO M. LAWSON
Attorney for Plaintiffs

DATED: April 25, 2008

MORGAN LEWIS & BOCKIUS


BRIAN JOHNSRUD
Attorney for Defendants



Dated: 4/30/08

STIPULATION AND PROPOSED ORDER RE
HOFFMAN-LA ROCHE NOTICE
CASE NO. 3:06-CV-05682 MHP

1 IT IS SO ORDERED

2 DATED: _____

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5 MARILYN HALL PATEL
6 United States District Court Judge
7 Northern District of California
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EXHIBIT A

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO/OAKLAND DIVISION

RON MOWDY, JOAQUAN HARVEY,
individually and on behalf of all others
similarly situated,,

Plaintiffs,

v.

BENETO BULK TRANSPORT, KENAN
ADVANTAGE GROUP, INC.,

Defendants.

Case No. 3:06-cv-05682 MHP

**Notice of Lawsuit Against Beneto Bulk Transport d/b/a KAG West LLC
and Kenan Advantage Group**

United States District Court For the Northern District of California

*This notice and its contents have been authorized by the United States District Court
Honorable Marilyn Hall Patel District Court Judge. The Court has taken no position in the
case regarding the merits of the plaintiffs' claims or defendants' defenses.*

TO: Current and former employees of KAG West who have worked as drivers for
Beneto Bulk Transport/KAG West LLC and Kenan Advantage Group in
California at any time since May 9, 2004, who are not exempt from suing
defendants under the FLSA.

DATE: March 31, 2008

RE: Fair Labor Standards Act ("FLSA") lawsuit against Beneto/KAG West and Kenan
Advantage Group seeking overtime compensation for hours worked over forty
hours in a week

1 **1. Introduction**

2 The purpose of this Notice is to inform you of a collective action and class action lawsuit
3 against KAG West LLC formerly Beneto Bulk Transport and its parent company Kenan
4 Advantage Group. The Court has determined that you may be similarly situated to the Named
5 Plaintiffs. Therefore, the Court has ordered that this notice be sent to you, to explain what the
6 lawsuit is about and how to participate.

7 **2. Description Of the Lawsuit**

8 Plaintiffs Ron Mowdy and Joaquan Harvey (the "Named Plaintiffs" or "Plaintiffs") filed
9 this action under the FLSA against Beneto/KAG West on behalf of themselves and all other past
10 and present drivers in California from May 9, 2004 to the present.

11 Plaintiffs contend that they are owed overtime pay under the Fair Labor Standards Act.
12 Specifically, Plaintiffs allege that Beneto/KAG West maintains a policy and practice of requiring
13 drivers to work more than forty hours a week without paying overtime compensation. Plaintiffs
14 allege that they, and all employees similarly situated, are entitled to recover unpaid overtime pay.

15 Beneto/KAG West and Kenan Advantage Group deny that Plaintiffs and/or similarly
16 situated employees are entitled to relief.

17 **3. Your Right to Join This Lawsuit**

18 If you fit the definition above, you may choose to join this suit (that is, you may "opt in").
19 To opt in, you must mail or fax a "Consent to Join" form to Plaintiffs' counsel. This form is
20 enclosed in this envelope with this notice. Forms should be faxed or mailed to Plaintiffs' counsel
21 at:

22 MINAMI TAMAKI LLP
23 360 Post Street, 8th Floor
24 San Francisco, CA 94108
25 415 788-9000 telephone
26 415 398-3887 facsimile

27 Forms must be postmarked on or before _____ [90 days from the date of mailing
28 of the Notice and Consent to Join]. Even though you may return an opt-in form, you may not be
29 included in the class if it is later determined that you are exempt from suing defendants under the
30 FLSA or ineligible to join the suit.

31 **4. The Consequences of Joining This Lawsuit**

32 If you file a Consent to Join form in accordance with the instructions, you will be bound
33 by the judgment (that is, the final result of the lawsuit), whether favorable or unfavorable (that is,
34 whether the Plaintiffs win their argument that they should be paid money by KAG West and
35 Kenan Advantage Group or not). While this suit is proceeding, you may be required to respond
36 to written questions, sit for a deposition, and/or testify in court--in which case Plaintiffs' counsel
37 will assist you.

1 Plaintiffs' attorneys will not charge you directly for their work in this case. If there is no
 2 recovery, you will not be required to pay the attorneys for any of their work, though you may be
 3 responsible for your proportional share of defendants' costs. If there is a recovery, Plaintiffs'
 4 attorneys will receive whatever attorneys' fees the Court orders. Those fees may be subtracted
 from the recovery obtained from KAG West and Kenan Advantage Group, or they may be paid
 separately by KAG West and Kenan Advantage Group, or they may be a combination of the two.

5 If you join this lawsuit, you designate the Named Plaintiffs as your agents to make
 6 decisions on your behalf concerning the lawsuit. These decisions and agreements made and
 entered into by the Named Plaintiffs will then be binding on you.

7 **5. The Consequences of Not Joining This Lawsuit**

8 If you choose not to join this lawsuit, you will not be affected by any judgment in this
 9 lawsuit on this FLSA claim, whether favorable or unfavorable. If you choose not to join in this
 10 lawsuit, you are free to file your own lawsuit and to select the attorney of your choice.

11 **6. No Retaliation Permitted**

12 Federal law prohibits Beneto/KAG West and Kenan Advantage Group from retaliating
 13 against you in any way (for example, terminating you, giving you fewer hours, cutting your pay,
 14 etc.) because you have exercised your rights under the FLSA (for example, by joining the lawsuit
 or by providing evidence in support of the Plaintiffs).

15 **7. Your Legal Representation If You Join**

16 If you choose to join this suit, you will be represented by the Named Plaintiffs through
 17 their attorneys, as counsel for the class. Counsel for the class include:

18 Antonio Lawson (SBN 140823)
 19 Kendra Tanacea (SBN 154843)
 20 LAWSON LAW OFFICES
 160 Franklin Street, No. 204
 21 Oakland, CA 94607
 510 419-0940 telephone
 510 419-0948 facsimile

22 Jack W. Lee (SBN 71626)
 23 MINAMI TAMAKI LLP
 360 Post Street, 8th Floor
 24 San Francisco, CA 94108
 415 788-9000 telephone
 25 415 398-3887 facsimile

26 Sheila Y. Thomas (SBN 161403)
 27 LAW OFFICES OF SHEILA THOMAS
 5260 Proctor Avenue
 28 Oakland, CA 94618

1 510 339-3739 telephone
2 510 339-3723 facsimile

3 AJ Kutchins (SBN 102322)
4 P.O. Box 5138
5 Berkeley, CA 94705
6 510 841-5635 telephone
7 510 841-8115 facsimile

8 **8. Further Information**

9 If you want further information about this Notice or the lawsuit, or have questions about
10 the procedure or deadline for filing a "Consent to Join," please write Plaintiffs' counsel at any of
11 the addresses above, or call Lawson Law Offices at (877) 419-0940.

12 **9. Court Authorization**

13 This notice and its contents have been authorized by the Federal District Court, Honorable
14 Marilyn Patel, United States District Court Judge.

15 Date: April _____, 2008

16 By: _____

CONSENT TO JOIN

I understand that this lawsuit is being brought under the federal Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201 et seq. I consent, agree, and opt-in to become a party plaintiff to this lawsuit.

I agree to be bound by any adjudication or settlement of this action by the Court, whether it is favorable or unfavorable, and agree to designate the class representatives as my agents. I understand that I will be bound by the decision and agreements made by and entered into by said representatives. I hereby designate the law firm of Lawson Law Offices to represent me in this action.

I am a current or former employee of Beneto and/or its successor KAG West.

Dated: _____ Signature: _____

Print Name: _____ Telephone: _____

Address: _____

Email Address: _____

This form must be returned by mail POSTMARKED, or successfully faxed, NO LATER THAN [insert date] to:

MINAMI TAMAKI LLP
360 Post Street, 8th Floor
San Francisco, CA 94108
415 788-9000 telephone
415 398-3887 facsimile